



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,334	05/12/2005	Jean-Max Huot	MART0890US	3598
24235 7590 05/13/2008 LEVINE & MANDELBAUM 444 MADISON AVENUE 35TH FLOOR NEW YORK, NY 10022				
EXAMINER BOUCHELLE, LAURA A				
ART UNIT		PAPER NUMBER		
3763				
MAIL DATE		DELIVERY MODE		
05/13/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,334

Applicant(s)

HUET, JEAN-MAX

Examiner

LAURA A. BOUCHELLE

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Amendment after final filed 3/17/08 has been fully considered and found to be persuasive. The finality of the previous action has been withdrawn. A new action on the merits follows.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huet (EP 1116493) in view of MacGregor (US 4579120). Huet discloses an anti-stick device comprising a needle 17 having a bend, a needle holding panel F, a base panel C, a covering panel A, walls, E,B, the base panel and the needle holding panel having holes 15, 16 to receive the needle, the base panel having branches D, and the needle holding panel having lugs 9, 10. See Fig.1. The device functions in the same manner as applicant's invention. See Figs. 1-10.

3. Claim 1 differs from Huet in calling for the base panel and the needle holding panel to be curved. Macgregor teaches a device for anchoring a catheter on a patient's skin wherein the device is formed with a curve so that it can conform to the contours of the patient's body to stabilize the catheter and increase patient comfort (Col. 3, lines 45-46). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Huet to include a curved base and needle holding panel in the same manner as the device of MacGregor is curved so that they conform to the patient's body to increase stability of the needle and thus patient comfort.

4. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huet in view of MacGregor as applied to claim 1 above, and further in view of Knotek (US 5531704). Claim 2 differs from Huet in calling for the device to include a hard plastic material on the first pair of branches on the base panel. Knotek teaches a needle puncture protection device have a panel configuration similar to that of Huet but further including a hard plastic portion 30 that maintains the needle in the safety position (Sol. 7, lines 9-15). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Huet to include a hard plastic portion as taught by Knotek that ensures that the needle stays within the safety enclosure to prevent accidental sticks.

Response to Arguments

5. Applicant's arguments, see pages 2-6, filed 3/17/08, with respect to the rejection(s) of claim(s) 1-8 under Knotek have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Huet (EP 1116493).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura A Bouchelle
Examiner
Art Unit 3763

/L. A. B./
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763